IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3629 OF 2005

Chakradhar @ Chakrya Sudam Kamble ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri.Santosh Deshpande for the Applicant.
Mr. R.Y.Mirza A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JUNE 27, 2005.

P.C.:
1. Heard Advocate for the Applicant and the learned A.P.P. for the State. The Applicant-Accused is being prosecuted for the offence punishable under sections 376 and 506 read with section 34 of the Indian Penal Code alongwith two other co-accused. As per the prosecution case, the offence under section 376 of the Code has been committed by the Applicant when the other two co-accused were standing outside the house of the prosecutrix. It is the case of the prosecution that on 6th May, 2004 at about 3.00 a.m., the Applicnt alongwith other two accused knocked the door of the house of the prosecutrix. The husband of the complainant opened the door. The Applicant called the husband outside the house and stated that the husband has teased a bar girl and the said bar girl had shown

the house to the Applicant. As the husband of the prosecutrix was threatened, he ran away. The case of the prosecution is that the Applicant committed rape on the prosecutrix when other two accused were standing outside the house. The husband of the prosecutrix brought the police. The Applicant threatened the prosecutrix by putting knife on her neck. The police tried to chase other two accused when the Applicant ran away.

2. The learned Counsel appearing for the Applicant submitted that in the identification parade the so called eye-witness has identified the three Accused and stated that all the three Accused have committed offence under section 376 of the Indian Penal Code. He submitted that the identification parade which was held belatedly cannot be relied upon. He submitted that the co-accused have been enlarged on bail.

3. The learned A.P.P. has pointed out the material against the Applicant. He pointed out that report of the Chemical Analyser is awaited. He pointed out that the other co-accused have been enlarged on bail as there is no specific allegation against them of commission of offence under section 376 of the Indian Penal Code.

4. I have considered the rival submissions. The material on record is sufficient to indicate the complicity of the Applicant. The Applicant cannot claim bail on the ground of parity as according to the prosecution when the Applicant committed rape other two accused who are enlarged on Bail were standing outside the house of the prosecutrix.

5. As far as the identification parade is concerned, it is a matter of evidence which will be considered at the stage of trial. Considering the gravity of allegations against the Applicant and considering the material available against him, this is not a case where the Applicant can be enlarged on bail. I find no reason to take view different from the view taken by the learned Additional Sessions Judge. Hence, the Application is rejected.

6. Considering the young age of the Applicant the learned Trial Judge will treat this matter as High Court expediated case and will dispose of the same as expeditiously as possible.

7. Liberty to the Applicant to apply before the learned Sessions Judge, Mumbai for assigning the case

to appropriate Fast Track Court.

JUDGE